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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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8 *Ex parte* DONNA K. LENCKI,
9 CHRIS HENCHEY, and
10 PATRICK B. MILLER
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13 Appeal 2010-010104
14 Application 09/748,359
15 Technology Center 3600
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18 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and
19 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
20 FETTING, *Administrative Patent Judge*.

21 DECISION ON REQUEST FOR REHEARING¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

This is a decision on rehearing in Appeal No. 2010-010104. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Requests for Rehearing are limited to matters misapprehended or overlooked by the Board in rendering the original decision. 37 C.F.R. § 41.52 (2002).

ISSUES ON REHEARING

Appellants raise the issue of whether a plurality of line items is disclosed or otherwise predictable in the Request for Rehearing.

ANALYSIS

We found in our decision that claims 1-4, 6-12, 15-17, 20-31, 34-36, 39-40, 42-48, 51, 70-73, 75-79, and 82 were unpatentable under 35 U.S.C. § 103(a) over Wizig and Warady and claims 14, 18-19, 33, 37-38, 50, 81, and 106 were unpatentable under 35 U.S.C. § 103(a) over Wizig, Warady, and Spurgeon. (Decision 11).

The Appellants argue that Warady does not disclose displaying a plurality of different line items (Request 3). We adopted the findings and analysis in the Examiner's answer to the arguments set forth in the Appeal Brief (Decision 9) and the Examiner found that the combination of the art described this limitation at Ans. 30-31. In particular, Warady presents a drawing of a computer display containing a plurality of different health insurance line items in which, for each health insurance benefit option, a line is displayed that shows both the cost of the benefit plan and the out of pocket co-insurance or deductible amount. Decision 6: FF 07.

The Appellants argue that Wizig does not show this plurality of line items, whereas it is Warady that describes this. The Appellants then argue one would not

format Wizig's costs with Warady's line items, but only refer to Wizig rather than Warady to support this argument. It would appear the Appellants are essentially arguing that one of ordinary skill would not have found plural benefits with their attendant benefit and out of pocket costs to be predictable. But Wizig portrays displaying such plural benefit line items each with out of pocket costs. Decision 7: FF 04; see Wizig Figs. 30 and 31. Given that both Wizig and Warady describe the cost of the benefit as well as the out of pocket cost, adding the cost of the benefit to Wizig's listing, particularly in view of Warady's display of such, would be predictable to one of ordinary skill.

CONCLUSION

Nothing in Appellant's request has convinced us that we have overlooked or misapprehended the plurality of line items as argued by Appellants. Accordingly, we deny the request to reverse out Decision.

DECISION

To summarize, our decision is as follows:

- We have considered the REQUEST FOR REHEARING.
- We DENY the request that we reverse the Examiner as to claims 1-4, 6-12, 14-31, 33-40, 42-48, 50, 51, 70-73, 75-79, 81, 82, and 106.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REHEARING DENIED

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7 MORGAN, LEWIS & BOCKIUS LLP

8 1701 MARKET STREET

9 PHILADELPHIA PA 19103-2921